

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
DETROIT DIVISION**

IDA M. ROWSER,

Plaintiff,

v.

ALLIED INTERSTATE, LLC,

Defendant.

CIVIL COMPLAINT

CASE NO. 2:19-cv-10310

DEMAND FOR JURY TRIAL

COMPLAINT

NOW comes IDA M. ROWSER (“Plaintiff”), by and through her attorneys, Sulaiman Law Group, Ltd. (“Sulaiman”), complaining as to the conduct of ALLIED INTERSTATE, LLC (“Defendant”), as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action for damages pursuant to the Fair Debt Collection Practices Act (“FDCPA”) under 15 U.S.C. §1692 *et seq.*, the Telephone Consumer Protection Act (“TCPA”) under 47 U.S.C. §227 *et seq.*, and the Michigan Occupational Code (“MOC”) under M.C.L. §339.901 *et seq.* for Defendant’s unlawful conduct.

JURISDICTION AND VENUE

2. This action arises under and is brought pursuant to the FDCPA and TCPA. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C §1692, 47 U.S.C §227, 28 U.S.C. §§1331 and 1337, as the action arises under the laws of the United States. Supplemental jurisdiction exists for the state law claim pursuant to 28 U.S.C. §1367.

3. Venue is proper in this Court pursuant to 28 U.S.C. §1391 as Defendant conducts business in the Eastern District of Michigan and a substantial portion the events or omissions giving rise to the claims occurred within the Eastern District of Michigan.

PARTIES

4. Plaintiff is a 39 year old natural person residing in Detroit, Michigan, which lies within the Eastern District of Michigan.

5. Plaintiff is a “person,” as defined by 47 U.S.C. §153(39).

6. Defendant is a debt collector with its principal place of business located at 7525 West Campus Road, New Albany, Ohio 43054. The principal purpose of Defendant’s business is the collection of consumer debts. Defendant collects or attempts to collect, directly or indirectly, defaulted debts owed or due or asserted to be owed or due to others using the mail and telephone, including consumers in the State of Illinois.

7. Defendant is a “person” as defined by 47 U.S.C. §153(39).

8. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers at all times relevant to the instant action.

FACTS SUPPORTING CAUSES OF ACTION

9. In approximately the winter of 2018, Plaintiff began receiving calls to her cellular phone number, (313) XXX-4127, from Defendant.

10. At all times relevant to the instant action, Plaintiff was the sole subscriber, owner, and operator of the cellular phone ending in 4127. Plaintiff is and always has been financially responsible for the cellular phone and its services.

11. Defendant mainly places phone calls to Plaintiff's cellular phone from the phone number (877) 313-3730; but upon belief, it has used other phone number as well.

12. Upon information and belief, the above referenced phone number is regularly utilized by Defendant during its debt collection activity.

13. Upon answering phone calls from Defendant, Plaintiff experiences a noticeable pause, lasting several seconds in length, before she is connected with a live representative.

14. Upon speaking with Defendant, Plaintiff is informed that Defendant is seeking to collect upon an outstanding consumer debt said to be owed by an individual named "George Boll."

15. Plaintiff is unfamiliar with any individual by that name, so she informed Defendant that it was calling the wrong party and demanded that it stop calling.

16. Plaintiff has received not less than 30 phone calls from Defendant seeking to collect upon a debt owed by an individual with whom Plaintiff is unfamiliar.

17. Frustrated over Defendant's conduct, Plaintiff spoke with Sulaiman regarding her rights, resulting in expenses.

18. Plaintiff has been unfairly and unnecessarily harassed by Defendant's actions.

19. Plaintiff has suffered concrete harm as a result of Defendant's actions, including but not limited to, invasion of privacy, aggravation that accompanies collection telephone calls intended for an unknown individual, emotional distress, increased risk of personal injury resulting from the distraction caused by the calls, increased usage of her telephone services, loss of cellular phone capacity, diminished cellular phone functionality, decreased battery life on her cellular phone, and diminished space for data storage on her cellular phone.

COUNT I – VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

20. Plaintiff repeats and realleges paragraphs 1 through 19 as though fully set forth herein.

21. Plaintiff is a "consumer" as defined by 15 U.S.C. §1692a(3) of the FDCPA.

22. Defendant is a “debt collector” as defined by §1692a(6) of the FDCPA, because it regularly use the mail and/or the telephone to collect, or attempt to collect, delinquent consumer accounts.

23. Defendant identifies itself as a debt collector, and is engaged in the business of collecting or attempting to collect, directly or indirectly, defaulted debts owed or due or asserted to be owed or due to others. Defendant has been a member of ACA International, an association of credit and collection professionals, since 2015.¹

24. The subject debt is a “debt” as defined by FDCPA §1692a(5) as it arises out of a transaction due or asserted to be owed or due to another for personal, family, or household purposes.

a. Violations of FDCPA §1692b & c(b)

25. The FDCPA, pursuant to 15 U.S.C. §1692b, prohibits a debt collector from “communicating with any person other than the consumer for the purpose of acquiring location information about the consumer.” Additionally, under §1692b(3), a debt collector “shall not communicate with any such person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information.” Furthermore, under §1692c(b), “without the prior consent of the consumer given directly to the debt

¹ <http://www.acainternational.org/search#memberdirectory>

collector...a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency...the attorney of the creditor, or the attorney of the debt collector.”

26. Defendant violated §1692b, b(3), and c(b) by contacting Plaintiff on a number of occasions seeking to collect upon a debt owed by an individual named “George Boll.” Defendant’s phone calls to Plaintiff, a third party, constitute direct violations of the numerous provisions governing contacts with third parties under the FDCPA.

b. Violations of FDCPA §1692c(a)(1) and §1692d

27. The FDCPA, pursuant to 15 U.S.C. §1692d, prohibits a debt collector from engaging “in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.” §1692d(5) further prohibits, “causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.”

28. Defendant violated §1692c(a)(1), d, and d(5) when it repeatedly called Plaintiff attempting to collect upon a debt owed by an individual with whom Plaintiff was not familiar. Defendant called Plaintiff at least 30 times attempting to collect a debt from Plaintiff that she had no connection with. This repeated behavior of systematically calling Plaintiff’s cellular phone in an attempt to collect a debt owed by an individual unknown to Plaintiff was harassing and abusive. The frequency and

volume of calls shows that Defendant willfully ignored Plaintiff's information with the goal of annoying and harassing her.

c. Violations of FDCPA §1692e

29.The FDCPA, pursuant to 15 U.S.C. §1692e, prohibits a debt collector from using "any false, deceptive, or misleading representation or means in connection with the collection of any debt."

30.In addition, this section enumerates specific violations, such as:

"The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer." 15 U.S.C. §1692e(10).

31.Defendant violated §1692e and e(10) when it used deceptive means to collect and/or attempt to collect the subject debt. Defendant repeatedly contacted the wrong party seeking to collect upon a debt. Nevertheless, Defendant called Plaintiff at least 30 times in a deceptive attempt to force her to answer its calls and ultimately make a payment, even though she was not the debtor. Through its conduct, Defendant misleadingly represented to Plaintiff that it had the legal ability to contact her via an automated system absent her consent or any prior business relationship with Plaintiff.

d. Violations of FDCPA §1692f

32.The FDCPA, pursuant to 15 U.S.C. §1692f, prohibits a debt collector from using "unfair or unconscionable means to collect or attempt to collect any debt."

33. Defendant violated §1692f when it unfairly and unconscionably attempted to collect on a debt by repeatedly calling Plaintiff seeking to speak with an individual who was not Plaintiff. Defendant repeatedly contacted Plaintiff attempting to collect upon an individual with whom Plaintiff is unfamiliar. Attempting to coerce payment by placing voluminous phone calls to an individual not associated with the subject debt is unfair and unconscionable behavior. These means employed by Defendant only served to worry and confuse Plaintiff.

34. As pled in paragraphs 16 through 19, Plaintiff has been harmed and suffered damages as a result of Defendant's illegal actions.

WHEREFORE, Plaintiff, IDA M. ROWSER, respectfully requests that this Honorable Court enter judgment in her favor as follows:

- a. Declaring that the practices complained of herein are unlawful and violate the aforementioned bodies of law;
- b. Awarding Plaintiff statutory damages of \$1,000.00 as provided under 15 U.S.C. §1692k(a)(2)(A);
- c. Awarding Plaintiff actual damages, in an amount to be determined at trial, as provided under 15 U.S.C. §1692k(a)(1);
- d. Awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692k(a)(3); and
- e. Awarding any other relief as this Honorable Court deems just and appropriate.

COUNT II – VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT

35. Plaintiff repeats and realleges paragraphs 1 through 34 as though fully set forth herein.

36. The TCPA, pursuant to 47 U.S.C. § 227(b)(1)(iii), prohibits calling persons on their cellular phone using an automatic telephone dialing system (“ATDS”) without their consent. The TCPA, under 47 U.S.C. § 227(a)(1), defines an ATDS as “equipment which has the capacity...to store or produce telephone numbers to be called, using a random or sequential number generator; and to dial such numbers.”

37. Defendant uses an ATDS in connection with its communications directed towards Plaintiff’s cellular phone. The noticeable pause, lasting several seconds in length, which Plaintiff experiences during answered calls from Defendant is instructive that an ATDS is being utilized to generate the phone calls. Moreover, the nature and frequency of Defendant’s contacts points to the involvement of an ATDS.

38. Defendant violated the TCPA by placing at least 30 phone calls to Plaintiff’s cellular phone using an ATDS without her consent. Plaintiff has never had any business relationship with Defendant nor has she given it permission to call her cellular phone. Defendant was calling Plaintiff’s cellular phone looking for a different party with whom Plaintiff is unfamiliar. As such, Plaintiff could not have given Defendant consent to contact her.

39. The calls placed by Defendant to Plaintiff were regarding collection activity and not for emergency purposes as defined by the TCPA under 47 U.S.C. §227(b)(1)(A)(i).

40. Under the TCPA, pursuant to 47 U.S.C. § 227(b)(3)(B), Defendant is liable to Plaintiff for at least \$500.00 per call. Moreover, Defendant's willful and knowing violations of the TCPA should trigger this Honorable Court's ability to triple the damages to which Plaintiff is otherwise entitled to under 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff, IDA M. ROWSER, respectfully requests that this Honorable Court enter judgment in her favor as follows:

- a. Declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations;
- b. Awarding Plaintiff damages of at least \$500.00 per phone call and treble damages pursuant to 47 U.S.C. §§ 227(b)(3)(B)&(C);
- c. Awarding Plaintiff costs and reasonable attorney fees; and
- d. Awarding any other relief as this Honorable Court deems just and appropriate.

COUNT III – VIOLATIONS OF THE MICHIGAN OCCUPATIONAL CODE

41. Plaintiff restates and realleges paragraphs 1 through 40 as though fully set forth herein.

42. Plaintiff is a "consumer" or "debtor" as defined by M.C.L. § 339.901(f).

43. Defendant is a “collection agency” as defined by M.C.L. § 339.901(b) as it is a person that is directly engaged in collecting or attempting to collect a claim owed or due or asserted to be owed or due another.

44. The subject debt is a “[c]laim” or “debt” as defined by M.C.L. § 339.901(a) as it is an obligation or alleged obligation for the payment of money or thing of value arising out of an agreement or contract for a purchase made primarily for personal, family, or household purposes.

a. Violations of M.C.L. § 339.915(f)(ii)

45. The MOC, pursuant to M.C.L. § 339.915(f)(ii) prohibits a collection agency from “[m]isrepresenting in a communication with a debtor . . . [t]he legal rights of the creditor or debtor.”

46. Defendant violated M.C.L. § 339.915(f)(ii) by repeatedly contacting Plaintiff’s cellular phone using an automated system absent consent. Through its conduct, Defendant misrepresented that it had the legal ability to contact Plaintiff using an automated system even though Plaintiff had never consented to receiving such calls. As such, Defendant misrepresented its legal rights in placing the phone calls, as well as Plaintiff’s legal rights to have such phone calls cease, by continuing to contact Plaintiff’s cellular phone absent the lawful ability to do so.

b. Violations of M.C.L. § 339.915(n)

47. The MOC, pursuant to M.C.L. § 339.915(n), prohibits a collection agency from “[u]sing a harassing, oppressive, or abusive method to collect a debt, including causing a telephone to ring or engaging a person in telephone conversation repeatedly, continuously, or at unusual times or places which are known to be inconvenient to the debtor.”

48. Defendant violated the MOC when it repeatedly called Plaintiff attempting to collect upon a debt which Plaintiff did not owe. Defendant called Plaintiff at least 30 times, even though Plaintiff was not the party it was seeking. This repeated behavior of systematically calling Plaintiff’s phone in an attempt to collect a debt owed by an individual unknown to Plaintiff was harassing and abusive. Such contacts were made with the hope that Plaintiff would succumb to the harassing behavior and ultimately make a payment. The nature and volume of phone calls would naturally cause an individual to feel oppressed.

c. Violations of M.C.L. § 339.915(q)

49. The MOC, pursuant to M.C.L. § 339.915(q), subjects collection agencies to liability for “[f]ailing to implement a procedure designed to prevent a violation by an employee.”

50. Defendant violated the MOC by failing to adequately have procedures in place designed to prevent a violation by its employee(s). Based on Defendant’s conduct, it is clear that there is a complete absence of procedures in place designed to ensure

that its collection phone calls are being placed to their intended recipient. As such, Defendant has failed to implement procedures designed to prevent its employees from engaging in harassing, oppressive, or abusive methods in connection with its collection of debts.

WHEREFORE, Plaintiff, IDA M. ROWSER, respectfully requests that this Honorable Court enter judgment in her favor as follows:

- a. Declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations;
- b. Entitling Plaintiff to injunctive relief, pursuant to M.C.L. § 339.916(1).
- c. Awarding Plaintiff actual damages, including treble damages, pursuant to M.C.L. § 339.916(2).
- d. Awarding statutory damages of at least \$50.00, including treble damages, pursuant to M.C.L. § 339.916(2).
- e. Awarding Plaintiff costs and reasonable attorney fees, pursuant to M.C.L. § 339.916(2).
- f. Awarding any other relief as this Honorable Court deems just and appropriate.

Dated: January 31, 2019

Respectfully submitted,

s/ Ahmad T. Sulaiman

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